

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Group Art Unit: 1612

FRODE BRAKSTAD et al.

Examiner: Gigi G. Huang

Serial No.: 10/596,224

Filed: June 5, 2006

For: FOOD AND FEED SUPPLEMENT AND ITS USE

Attorney Docket No.: VITL 0101 PUSA

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT  
APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Notification of Non-Compliant Appeal Brief dated February 25, 2010, a replacement Summary is submitted herewith. Pursuant to MPEP 1205.03(b) and item (10) of the Notification, an entire brief is not required and hence not submitted. Accordingly, a new SUMMARY section is provided below:

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

This application has one (1) independent claim: claim 1.

Claim 1 recites a food and feed supplement containing vitamins, for improvement of health and performance, the supplement comprising: at least one C<sub>1-8</sub> carboxylic acid and/or its salt as the basic ingredient wherein the C<sub>1-8</sub> carboxylic acid is a formic acid, a citric acid, a lactic acid, a propionic acid, an ascorbic acid, a fumaric acid, an acetic acid or a benzoic acid (*see* for instance, the Abstract originally filed, lines 26 to 31 on page 5, lines 7 to 14 on page 15, and lines 9 to 12 on page 14 of the specification as originally filed, or paragraphs [0018], [0046], and

[0047] of the specification as published); the B<sub>6</sub>, B<sub>9</sub>, and B<sub>12</sub> vitamins in a combined amount of 10-50 mg/gram dry weight of the supplement to compensate for the loss of B<sub>6</sub>, B<sub>9</sub>, and B<sub>12</sub> vitamins due to carboxylic acid metabolism (*See* for instance lines 26 to 31 on page 5, lines 7 to 14 on page 15, and lines 1 to 2 on page 6 of the specification as originally filed, or paragraphs [0018], [0019] and [0047] of the specification as published); 5-25 mg Fe/gram dry weight of the supplement (*See* for instance lines 26 to 31 on page 5, lines 19 to 21 on page 13, and lines 7 to 14 on page 15 of the specification as originally filed, or paragraphs [0018], [0043], and [0047] of the specification as published); and 0-1 mg of an antioxidant per 100 mg dry weight of the supplement (*See* for instance lines 26 to 31 on page 5 and lines 7 to 14 on page 15 of the specification as originally filed, or paragraphs [0018] and [0047] of the specification as published), the amount of the carboxylic acid and/or its salt will give a pH of 2.0-6.0 when the supplement is dissolved in water (*See* for instance the Abstract as originally filed, lines 8 to 13 on page 4, lines 26 to 31 on page 5, lines 7 to 14 on page 15 of the specification as originally filed, or paragraphs [0012], [0018] and [0047] of the specification as published).

In view of the foregoing, Appellants respectfully submit that the application is in condition for allowance, which allowance is hereby respectfully requested.

No fees are believed to be due in connection with this paper. Please charge any additional fee or credit any overpayment in connection with this filing to our Deposit Account No. 02-3978.

Respectfully submitted,

**Frode Brakstad et al.**

Date: March 8, 2010

By: /Junqi Hang/

Junqi Hang, Reg. No. 54,615  
Attorney for Appellant

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400; Fax: 248-358-3351